

Compilation of Comments Received on Updates to Consultation Policy 512 DM 4 and 5

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Introduction

On January 26, 2021, as one of his first executive actions, President Biden issued a Memorandum for the Heads of Executive Departments and Agencies on Tribal Consultation and Strengthening Nation-to-Nation Relationships. In March 2021, Interior held four consultation sessions. Approximately, 240 Tribal representatives attended the consultation sessions, and Interior received 76 comment letters. Based on input provided during the consultation, Interior developed the [Detailed Plan for Improving Interior's Implementation of E.O. 13175](#). Action item #3 identified in Detailed Plan is Update Consultation Policy. Based on the input and direction from Tribes, Interior drafted revisions to the Departmental Manual (512 DM 4 and 512 DM 5).

On November 12, 2021, Interior distributed a letter inviting Tribes to consult on the draft updates to 512 DM 4 and 512 DM 5. In December 2021, 3 consultation sessions were held on the draft updates. Approximately, 63 Tribal representatives attended the consultations sessions, and Interior received 13 comment letters. What follows is a summary of the comments received. Also included is information on how comments were used to inform revisions to 512 DM 4 and 512 DM 5. Additionally, based on input received during the December 2021 consultation, four new Departmental Manual chapters were developed to outline the Department's consultation policy and procedures for consultation with Alaska Native Claims Settlement Act (512 DM 6 and 512 DM 7) Corporations and the Native Hawaiian Community (513 DM 1 and 513 DM 2).

Summary of Comments

Question 1: The draft defines “actions with Tribal implications” based on the definition of “policies with Tribal implications” in E.O. 13175 but incorporates Tribes’ past input that the definition should include actions that “may have substantial direct effects” rather than the more definitive “have substantial direct effects.” Should “actions with Tribal implications” be defined differently or in more detail? If so, how?

Several Tribes commented that for consultation to be meaningful it must be a government-to-government process built on mutual respect and transparent communications. One Tribe noted that the goal in consultation should be to have Tribal Leaders and federal leadership together at the same table so that decisions can be made through respectful dialogue based on a mutual understanding of the issues to reach a common agreement on how to move forward.

Language was added to 512 DM 5.4(E) to indicate that the goal of consultation should be to have Tribal Leaders and federal leadership engaged in respectful dialog based on mutual understanding in order to reach a common agreement.

One Tribe commented that a standard template should be created in consultation with Tribal Leaders for uniform implementation across all Interior agencies. The Tribe felt that creating a template would remove inconsistencies and foster clearer expectations on how consultations will be conducted for both Tribal Leaders and federal officials.

Additional consultation will be needed to develop templates for consultation. This is something the Department could incorporate into the ongoing work to improve Tribal consultation practices and support the Detailed Plan to Improve Interior’s Implementation of E.O. 13175.

Several Tribes commented that early notification and information is important to having meaningful consultations. One Tribe commented that language should be included requiring DOI to seek tribal input before key decisions have been reached, expectations have been formed, or investments have been made.

Language was added to 512 DM 5.5(A)(2) to direct bureaus and offices to consult as early as possible when an action is under consideration. The language directs offices to contact Tribes early in the process when information is available for the Tribe to decide if they want to consult.

One Tribe mentioned they were cautious about recommending a precise definition of “actions with Tribal implications” as it could have unintended consequences. Several Tribes commented that the definition of “Departmental Action with Tribal Implications” from the 2011 DOI policy should be added to the consultation policy. Other Tribes mentioned ancestral lands, submerged sites, and lands that Tribes have been removed from are important and should be included when evaluating actions with Tribal implications.

Added “Departmental Action with Tribal Implications” to definitions in 512 DM 4.3. “Submerged sites” and “ancestral lands” were added to the definition of “Departmental Action with Tribal Implications”.

Question 2: Are there different thresholds for what constitutes “substantial direct effect” that the policy should articulate

Tribes commented that they agreed with the proposed definition change from actions that “have substantial direct effects” to actions that “may have substantial direct effects”. A broader approach was preferred as it would allow for input from Tribal leaders on if an action would have substantial effect.

“May have substantial direct effects” was included in the “Departmental Action with Tribal Implications” definition at DM 4.3. Language was added to DM 5.5(2) to indicate that consultation notification should include sufficient information for Tribal leaders to determine if the Tribe would like to consult.

Additionally, several Tribes reminded DOI that only the Tribe can determine if there is a direct effect. This, however, raises the question of how such determinations could be made without holding a meta-consultation (i.e., a consultation on issues for consultation). As a solution, one Tribe suggested the creation of a document akin to that currently used by the U.S. Department of Agriculture (USDA) called a “Schedule of Proposed Actions - SOPA.” The Tribe stated that the SOPA is incredibly valuable to the Tribe for internal planning.

The SOPA approach may facilitate improved engagement and meaningful consultation between Tribes and the Department. Bureaus and offices are encouraged to use SOPAs on a trial basis as part of their Tribal consultation and engagement methods.

A. Should the policy list categories of Departmental actions that may cause a “substantial direct effect”?

Many Tribes commented that a list would not be helpful as it would not allow for flexibility and could be used to avoid consultation on projects that did not precisely fit the policy. Other Tribes commented that a list would help, but it should be made clear that the list of categories should not be exhaustive. Additionally, some Tribes commented that they do not support the use of categories of land status or treaty rights as a method of determining the level of direct effect.

“Departmental Action with Tribal Implications” definition was added to DM 4.3 and the definition provides categories of actions, but also indicates that the categories are not limited to the ones outlined in the definition.

B. Should the policy list categories of land status/treaty rights (such as those listed in the draft Consensus-Seeking Model) that would incur substantial direct effects?

Some Tribes commented that listing land status categories would not be beneficial as they would limit consultation input in certain situations. Other Tribes commented that ancestral lands should be included as well. One Tribe commented that policy should list categories of DOI actions that may cause substantial direct effect, categories of land status/treaty rights that would incur substantial direct effect and provide examples of each.

“Departmental Action with Tribal Implications” definition includes categories not related to land status and also includes “ancestral lands” in the definition. See DM 4.3.

C. Should the policy provide examples of thresholds of “substantial direct effect” combining categories of Departmental actions with categories of land status/treaty rights (e.g., non-earth-disturbing activities on non-reservation lands)?

One Tribe commented that they did not support providing examples of thresholds of “substantial direct effect”, nor did it support combining categories of Departmental actions with categories of land status/treaty rights because it would create more narrow categories of what situations trigger consultations. The Tribe supports policies that increase the number of situations that trigger consultation requirements.

The definition of “Departmental Action with Tribal Implications” is included in DM 4.3 and provides additional language outlining projects or proposals that would trigger consultation.

Question 3: Is the draft Consensus-Seeking Model in Figure 1 workable?

Several Tribes commented that the model is disproportionately concerned with impacts on tribal territorial jurisdiction where tribes are beneficiary to tribal trust lands. Tribes also commented that the definition of substantial direct effects by a reservation-centric model would be disproportionately adverse to the interests of Tribes that are not beneficiary to “reservation land(s)”, and particularly the 228 Alaska Tribes with no reservation lands, or the many Tribes in the State of California that are landless.

Language was added to the model to indicate that bureaus and offices should also strive for the most consensus when considering actions that may have impacts to the Tribe and Tribal members, including health and welfare, and Tribal programs and jurisdiction.

Several Tribes agreed with the intent of the consensus-seeking model and noted that it is an improvement over the previous consultation policy models. Several Tribes commented that the model has potential in the evolution and modernization of the relationship between Tribal Nations and the United States. However, Tribes also commented that it does not appear DOI is required to seek consensus in any scenario, and that greater detail and transparency is necessary for both Tribal and federal officials to have a full understanding of just how this process will unfold. The Tribes recommended that DOI hold additional consultations on the proposed Consensus-Seeking Model to develop a more tangible process.

Language is included in DM 5.4(G) directing the bureaus and offices to abide by the consensus-seeking model and language is included with the model explanation to clarify that the model applies to all Departmental Actions with Tribal Implications. Follow-up consultations should be held on the model once the consultation policy has been in place to better understand how the model is working well and whether any updates should be made based on Tribal input and experience with the model.

Tribes commented that meaningful consultation should always be done in good-faith and seek to reach agreement between the parties on important issues and resolve differences. Tribes also emphasize that true consultation is a two-way dialogue and involves joint decision-making that reflects the nation-to-nation relationship between Tribes and the federal government and urged the DOI to include language in the DOI Consultation Policy and Procedures that specifically articulates how Tribes will be involved in the joint decision-making process. Tribes also urged the DOI to include language in the DOI Consultation Policy and Consultation Procedures that

specifically provides that all tribal consultation should have the goal of reaching consensus and that when a project will negatively affect tribal lands and resources, tribal informed consent is required.

Language from DM 5.4(G) was moved to DM 4.6 to clarify that consensus seeking is part of the policy for Tribal consultations. The consensus-seeking model is included at DM 5.4 (G).

One Tribe commented that at all tiers of the consensus-seeking model, DOI should make it clear that impacts within and outside of Tribal jurisdictions, where reservations no longer exist, must be treated the same as their respective tiers of on-and-off reservation actions. The Tribe further commented that any type of ambiguity enables different treatment between Tribes with reservations and those without reservations. They recommended that DOI should apply the consensus model with an aim towards enabling consultation.

Language was added to the model to indicate that bureaus and offices should strive to achieve consensus. Additionally, language was added to the model to indicate that bureaus and offices should also strive for the most consensus when considering actions that may have impacts to the Tribe and Tribal members, including health and welfare; Tribal programs and jurisdiction to indicate the degree of consensus for consultations not related to land status.

One Tribe commented that the current model will result in future DOI staff decisions that seek the minimum amount of consensus required to proceed. The Tribe also commented that when a Tribe is impacted by a federal action, it is not going to agree with the Department's determination of degree of consensus required for success, if that determination allows less than full consensus. The Tribe preferred that the goal of all consultation be full consensus.

Language was added to DM 5.4(E) directing that consultation should be carried out pursuant to the principles outlined DM 5.4 (G) consensus-seeking model. DM 5.4(G) also outlines options for dispute resolution when consensus cannot be reached.

Tribes commented that rather than adopt the "consensus-seeking model," the Biden Administration should adopt a tribal consultation policy based on the FPIC standard. The FPIC standard requires the free, prior and informed consent of an Indian Tribe to federal actions that affect the Tribe, its land or resources. Tribes also commented that the FPIC-based tribal consultation policy upholds the federal policies of tribal sovereignty and self-determination, and honors the United States' trust and treaty obligations to Tribal Nations. Tribes commented that integrating FPIC into tribal consultation also would significantly decrease the risks associated with advancing a federal action without Tribal consent. FPIC would also empower Tribal Nations to say no to a proposed federal action, or to require changes to the federal proposal so that the federal government and the affected Tribal Nation can agree on the scope of the proposed federal action.

The Department declines to adopt the FPIC standard at this time, because such a change would deviate from the current position of the United States on the recommended requirement. As noted in the Announcement of U.S. Support for the UNDRIP, "the United States understands [free, prior, and informed consent] to call for a process of meaningful consultations with tribal leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken." See, Announcement of U.S. Support for the United Nations Declaration

on the Rights of Indigenous Peoples, at <https://2009-2017.state.gov/documents/organization/154782.pdf> (last visited September 1, 2022).

One Tribe commented that the draft should incorporate a standard for meaningful consultation.

A definition of formal consultation was added to DM 4. DM 4.6 includes language indicating that the basis of consultation is rooted in meaningful dialog.

A. Are there impacts that are not included in the model that should be?

One Tribe commented that the second ring, covering off-reservation treaty rights and sacred sites should be incorporated into the first ring covering on-reservation treaty rights and sacred sites.

The Consensus-Seeking Model reflects that an agency action may affect an Indian Tribe more when on-reservation treaty rights and sacred sites are implicated versus off-reservation. See, e.g., White Mountain Apache Tribe v. Bracker, 448 U.S. 136, 151 (1980) (“The Court has repeatedly emphasized that there is a significant geographical component to tribal sovereignty”); United States v. Mazurie, 419 U.S. 544, 558 (1975) (“The cases in this Court have consistently guarded the authority of Indian governments over their reservations.”).

One Tribe commented that the Consensus-Seeking Model is not included in the 512 DM 4, and that specific mention of tribal treaty and other reserved rights should be specifically included in 4.3(B). The Tribe also commented that absence of reference to these rights is a critical shortcoming of the definition of “Actions with Tribal Implications” even with the incorporation of the Consensus-Seeking Model.

Language on consensus-seeking was incorporated into DM 4 at DM 4.6. “Treaty rights” is included in 4.3(B).

Several Tribes commented that there was an absence of recognizing how DOI and its agencies actions or activities may impact the public health of citizens. Tribes recommended that DOI revise the proposed Consensus-Seeking Model to more appropriately reflect how DOI will consult with Tribal Nations regarding potential public health impacts from infrastructure projects and other DOI actions.

Language was added to the model to indicate that bureaus and offices should also strive for the most consensus when considering actions that may have impacts to the Tribe and Tribal members, including health and welfare; and Tribal programs and jurisdiction.

B. Should any of the items be in a different ring than shown?

No comments received.

Question 4: How might the policy better contribute to the Department's efforts in protecting sacred sites under Executive Order 13007 and other laws?

Several Tribes commented that it should be made clear that sacred sites, whether on reservation or off, fall under the consultation policy.

“Sacred sites” added to the definition of “Departmental Action with Tribal Implications” in DM 4.3.

One Tribe commented that advance project notice such as that recommended here would contribute to positive developments in the protection of Tribal cultural resources and property. The Tribe also commented that the only way to understand the range of these potential impacts is for the Tribe to directly engage with and inform Department officials on the identification of cultural resources and the potential impacts on them. The Tribe noted that it is critical that sufficient time be factored into NEPA processes to allow for discussions and information to be fully integrated into Tribal consultation.

Language added to DM 5.4(A) to indicate that Tribes must be invited to consult early in the planning process.

One Tribe noted that components of the Interior Manual are not available on the website, such as 512 DM 3, regarding Departmental Responsibilities for Protecting/Accommodating Access to Indian Sacred Sites.

The Departmental Manual has been updated to fix the broken link. 512 DM 3 is available here: <https://www.doi.gov/sites/doi.gov/files/elips/documents/512-dm-3.pdf>

Tribes also noted that sacred and cultural sites also exist offshore and are currently submerged. These sites must also be included as a part of the Model's reference to “off-reservation sacred sites/cultural resources.” DOI must ensure that any development that may affect our cultural and sacred sites that are now underwater are provided the same protections as other cultural and sacred sites.

“Submerged sites” added to the definition of “Departmental Action with Tribal Implications” in DM 4.

One Tribe commented that the draft should support the return of former Tribal lands to Tribes under the fee-to-trust regulations (25 CFR Part 151) for this and other purposes contemplated by the Indian Reorganization Act of 1934 and 1936.

The fee-to-trust regulation are outside the scope of the DOI consultation policy. Information on the fee-to-trust consultations is available here: <https://www.bia.gov/tribal-consultation/25-cfr-part-151-land-acquisition-and-25-cfr-part-293-class-iii-tribal-state>

Question 5: Do you have any recommendations regarding the Tribal Consultation Annual Report identified in draft 512 DM 4.7?

Tribes commented on the importance of informing Department leadership, across all agencies, on how they are responsible for and can support the Secretary in completing the Department of Interior - Tribal Consultation Annual Report. One Tribe noted transparency is key in reporting. It is the responsibility of each Regional Director and agency leadership to complete this work, not Tribal Leaders.

DM 4.4(C) outlines that heads of bureaus and offices are responsible for complying with the requirements of the consultation policy, which includes the reporting requirements at DM 4.9.

One Tribe commented that mass informational meetings open to the public or to multiple Tribes are not Section 106 consultation and should not be described as such on DOI's website or in its reporting. The Tribe also commented that annual reporting should omit confidential information, and DOI should seek permission from individual Tribes before including any success stories in its reports, in case the Tribe does not wish its consultation featured.

Language added to the appendix (Department of the Interior Tribal Consultation Annual Report) to indicate that public meetings should not be included in consultation reporting information. Language was also added to indicate that any information deemed sensitive by a Tribe should not be included in the report. Item #5 of the Department of the Interior Tribal Annual Report includes updated language indicating that bureaus and offices should get permission from a Tribe before submitting information on consultation successes in their annual reports.

Tribes commented that DOI has not been publishing Annual Consultation Reports on its national and regional Tribal consultations on its website. Several noted that an explanation of the agency decision and the actions that happened following that decision are not outlined in the consultation report.

Item #4 of the Department of the Interior Tribal Annual Report includes updated language indicating that bureaus and offices should summarize outcomes from consultations.

Tribes also commented that each DOI agency should be required to publish a summary of all comments received, how that guidance influenced the agency's decision, and why the decision was reached. In addition, DOI agencies should follow-up with Tribal Nations following the execution of federal decisions to assess efficacy and better understand associated consequences.

Item #4 of the Department of the Interior Tribal Annual Report includes updated language indicating that bureaus and offices should summarize outcomes from consultations. DM 5.5(C) outlines that the record of consultation should include a summary of Tribal input, an explanation of how the input was used, and reasoning when Tribal input cannot be incorporated or consensus could not be reached.

A. Now that the Department is now listing its national and regional Tribal consultation sessions on its website, would a website showing an archive of those past sessions be a sufficient replacement of the Annual Report?

Tribes commented that the consultation website is not a substitute for a proper annual report. The Tribes noted that an annual report is important to providing additional information such as Interior's progress on its work.

The annual report continues to be a requirement included in DM 4.

One Tribe commented that the "Past Consultations from Our Bureaus and Offices is not complete" and the "Consultations from Our Bureaus and Offices" links to the BIA past consultations website. The Tribe also commented that it would be useful to review past Tribal Consultation Annual Reports from each of the agencies and bureaus within Interior to evaluate their effectiveness.

The Department will work to update the "Past Consultations" webpage. Information on past Indian Affairs consultations is available here: [Past Tribal Consultations | Indian Affairs \(bia.gov\)](https://www.bia.gov/past-tribal-consultations)

One Tribe commented that the Department should both post individual actions on the DOI website as well as consolidate products into an annual report. Additionally, the Tribe commented that the report should be a record of all consultation actions undertaken by the Department in a given year, and each action should be accompanied by the target result and achieved result. In cases where targets are not met, the report should outline recommendations for moving closer to optimal outcomes.

Based on input from the March 2021 consultations, the Department developed a consultation website. The website provides information on Department-wide and provides links to bureau consultation websites, which have information on upcoming consultations for each bureau. [Upcoming Tribal Consultations | U.S. Department of the Interior \(doi.gov\)](https://www.doi.gov/upcoming-tribal-consultations). The websites and the annual reports focus on nation-wide and regional consultations in an effort to balance reporting and to respond to comments indicating information on consultations between individual Tribes and the federal government (one-on-one consultations) should not be shared publicly.

B. If not, what should the Annual Report contain?

One Tribe commented that annual reports should contain a summary of the consultations and any next steps still required.

Item #4 of the Department of the Interior Tribal Annual Report includes updated language indicating that bureaus and offices should summarize outcomes from consultations.

C. What should the Department's Tribal Governance Officer (TGO) do with the Annual Report?

No comments provided.

Question 6: Are there other provisions from the 2011 policy that have not been incorporated into the DM chapters, and should be?

Tribes commented that Interior must adopt policies on consultation requests that it receives from Tribes. Consultation is a two-way street, and communications should be direct and involve two-way dialogue and feedback.

DM 5.5(A)(6) states that a Tribe may request consultation and provides the process for responding to the consultation request.

One Tribe commented that in 512 DM 4.5 subject matter competency should be added to the responsibilities for any DOI staff member who will be facilitating consultation. The Tribe also commented that consultation must include subject matter experts who are prepared to provide authoritative answers to Tribal questions, and failing the ability to do so, DOI should be able to explain why questions must undergo additional legal or administrative review during the consultation session.

Language added at DM 5.4(B)(3) to indicate that subject matter expert staff must participate in consultations.

Several Tribes commented that ANCSA corporations are not Tribal governments, and that the Department should remove ANCSA corporations from 512 DM 4 and 5 and establish an ANCSA corporation consultation policy and practice in a 512 DM 6.

ANCSA corporation references removed from 512 DM 4 and 5. See 512 DM 6 and 512 DM 7 for ANCSA Corporation Consultation Policy.

Additional Comments on the Consultation Policy

Tribes recommended that DOI establish a Secretary's Tribal Advisory Committee. Tribal Leaders (one from each Geographical Region) would advise the Secretary and Interior leadership on federal programs and policies impacting our interests.

DM 4.7 added to create the Secretary's Tribal Advisory Committee.

One Tribe commented that the policy should clarify that consultations conducted under the National Historic Preservation Act, Native American Graves Protection and Repatriation Act, National Environmental Policy Act, etc. should follow the DOI consultation policy.

Language added to 512 DM 4.1 to clarify that the DOI policy supplements these existing laws. The intent is that all consultations that DOI conducts under any of these laws should be done in accordance with the principles outlined in the DOI policy. However, such consultations (e.g., those conducted under Section 106 of the NHPA) do not require the involvement of high-level leaders as defined in 512 DM 4.3.F or 512 DM 5.4.B.

One Tribe commented that "appropriate" should be deleted from 512 DM 4.1 as only the Tribe can determine the "appropriate" Tribal Official.

“Appropriate” was deleted from the first sentence in 512 DM 4.1. “Appropriate” remains in DM 5.4(B) to indicate the appropriate DOI official and subject matter experts should attend consultations on behalf of the bureau or office. DM 5.4 (B)(2) outlines that a Tribal leader or their designee would also attend the consultation.

Additional Comments on Consultation

Comments below were provided during the consultation sessions and through written comment. These comments fell outside of the specific changes to the policy but relate to overall consultation and the government-to-government relationship.

A. Trust Responsibility

Tribes commented that it is important to continue to stress the importance of the federal government’s trust responsibility to Tribal Nations that is fulfilled, in part, through ensuring that our Tribal interests are accounted for through meaningful Tribal consultation. Tribes also reminded DOI that it is the Department’s duty to ensure that Tribal interest are fully taken into account and protected from any action, program or policy undertaken by the federal government.

B. Early and Often

Tribes commented that DOI needs to begin consultation with the Tribes’ technical staff in the early planning stages of the decision-making process including pre-draft input and drafting in the development of policies on matters that significantly or uniquely affect the Tribes rights, interest, lands or environment. By engaging early in the planning process, this will allow adequate time for respective technical staff to develop briefings and identify issues to improve the communications on a variety of issues.

Tribes also noted that regular engagement is also critical to ensuring that lines of communication remain open. Tribal consultations should not occur only when a federal decision must be made but rather on a regular basis to form a partnership capable of navigating issues that arise. Tribes recommended that the DOI Consultation Policy and Procedures establish a framework for regular engagement with tribes. Additionally, Tribes commented that deadlines for tribal consultation and feedback should not place undue burdens on tribes.

C. Establishing Meaningful Communication Between Tribal and Federal Staff

Tribes commented that consultation can be an effective process for policy level officials to provide meaningful, timely input, and as appropriate, exchange views, information, and recommendations to delegated decision makers of the DOI on proposed policies or actions which may affect Tribal rights or interests. The concepts of mutual respect and professional relationships are essential to promote more effective communication and address the myriad of regulatory and land management actions within the DOI jurisdiction.

Several Tribes commented that the absence of meaningful consultation can pose unique threats to Tribal lands, resources, and, most importantly, people particularly as relates to infrastructure projects. Tribes must have a direct voice in all actions and policies that impact them as sovereigns. Tribes stated that meaningful consultation is a fundamental part of the Government-to-Government relationship.

Tribes commented that establishing clear lines of communication between decision-makers representing Tribal and federal interests is also critical to the efficiency and effectiveness of consultation processes. By establishing clear communication, any issues that arise can be dealt with in a manner that honors the nation-to-nation relationship without impeding federal decision-making processes.

D. DOI Funding for Tribal Consultation Points of Contact

One Tribe recommended that DOI should create a staff position dedicated to vetting consultation notices, conducting preliminary assessments of impacts to Tribes, ensuring notices reach the correct Tribal officials, proactively engaging in consultation with Tribes, and ensuring informed consent is obtained. This proposed official should also work across agencies when multiple agencies are involved in assessing the impacts of federal actions.

Tribes commented that to be truly engaged in consultation, there is a need for resources to manage the process. The overlooked component of this process is the burden the consultation process can impose on a Tribe, particularly those Tribes without access to significant economic resources. The Tribes recommended that the ‘Tribal Liaison’ concepts be re-ordered to provide for specific Tribal positions that would manage all DOI consultations; likely as a cooperative agreement between the DOI and Tribe to ensure accountability on behalf of both entities.

E. Consultation Training Requirements

Several Tribes commented that training is critical starting from Headquarters down to the regional and local agency levels of government. Tribes stated that it is important that all Department of the Interior agencies have a uniform understanding of the consultation policy and procedural requirements. Additionally, a key way to ensure that this goal is achieved is through the offering of mandatory Cultural Sensitivity 101 training sessions, as well as regular internal communications related to Tribal Nations and Tribal policies.

One Tribe recommended that the Department should consider as part of any Cultural Sensitivity 101 and other consultation-related training.

One Tribe commented that that 512 DM 4.5(E) should mandate specific Tribal education for the Tribes the agency is consulting with. The Tribe stated that agency representatives have a duty to understand what rights the Tribe itself holds under treaty, statute, or case law, and how those rights may be impacted by agency decisions.